IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MRS JUSTICE T.MEENA KUMARI**

**and**
**THE HON'BLE MR JUSTICE S.ANANDA REDDY**

**WRIT APPEAL NO : 1791 of 2004**

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 16/06/2004 WPMP No. 1154/2004 in WPMP No. 34537/2003 in WP NO : 27263 OF 2003 on the file of the High Court.)

Between:

The General Secretary, Hyderabad polymers workers union (Regd.No.A-3614), Patancheru, Medak District.

**..... APPELLANT**

AND

1 Hyderabad polymers, D-25, Industrial Estate, Patancheru-502319, Medak District, rep.by its Prop. Mr.Vijaya Mathukrishnan.
2 The Presiding officer, Labour Court-I, Hyderabad.

**.....RESPONDENT(S)**

**Counsel for the Appellant:MR.A.K.JAYAPRAKASH RAO**

**Counsel for the Respondent No.: MR.G.VIDYASAGAR, Advocate & G.P. for Labour.**

**The Court made the following :**

ORDER: (per S. Ananda Reddy,J.)

This writ appeal is filed by the workers union of the respondent-company aggrieved by the interim order granted by the learned single judge, under which the interim order of suspension is made absolute.

As the 1st respondent-company closed down its unit at the instance of the appellant-union there was a reference to the industrial tribunal U/s 17 of the Industrial Disputes Act (for short the "Act") for a decision as to the legality or otherwise of the action of the respondent-company. The industrial tribunal registered the dispute as I.D.No.107/2002 and after considering the rival contentions and the material produced before it, recorded a categorical finding that the action of the respondent-company is illegal and the appellant-union of workmen are entitled for reinstatement with all other consequential benefits including the wages from 1-12-2001. The said order was assailed in the writ petition. A learned single Judge of this court initially granted interim suspension of the said award. Thereafter in the vacate petition filed by the appellant the interim order was made absolute by the learned single judge holding that the finding recorded by the industrial tribunal is unsustainable and contrary to law laid down by the Supreme Court. The main writ petition itself is pending. Aggrieved by the order passed by the learned single Judge the appellant preferred the present appeal.

According to the learned counsel for the appellant union, when once the order of reinstatement, if any, is passed by the industrial tribunal, there is an obligation on the part of the respondent-company to comply with the provisions of Section 17-B of the Act by paying the amounts which the members of the appellant- workmen union have been drawing as on the date of closure of the unit. He contends that since no such payment is made by the respondent-company the

impugned order is liable to be set aside.

The learned counsel appearing for the respondent-company, however, contends that the unit itself is not in existence in view of the closure and also the sale and removal of the machinery. The learned counsel also sought to contend that the reference to the industrial tribunal is not legal as the closure of the unit itself is not an industrial dispute. We are unable to appreciate the contentions of the learned counsel for the respondent-company.

In this case award was passed by the tribunal ordering reinstatement and against that further proceedings are initiated by the respondent-company without complying with the provisions of Section 17-B of the Act. It is to be seen that when once an award of reinstatement was passed, it is mandatory to comply with the provisions of Section 17-B of the Act. Admittedly the respondent-company has not complied with the mandatory provisions of Section 17-B of the Act, which is not permissible in law. Further as final finding as to the legality or otherwise of the order impugned in the writ petition was recorded by the learned single Judge while passing the orders in the miscellaneous petition, the said finding is unsustainable. Therefore the order under appeal is liable to be set aside and is accordingly set aside.

The writ appeal is accordingly disposed of. No costs.

The office is directed to list the main writ petition for final disposal immediately after Pongal Vacation, 2005.

07th December, 2004

BJ/

**To**

1 Hyderabad Polymers, D-25, Industrial Estate, Patancheru-502319, Medak District, rep.by its Prop. Mr.Vijaya Mathukrishnan.
2 The Presiding officer, Labour Court-I, Hyderabad.

3 One c.c. to A.K. Jayaprakash Rao, Advocate (O.u.t)

4. 2 CCs to G.P. for Labour, High Court Buildings, Hyderabad.

5. The S.O., Writ Filing Section, High Court of A.P., Hyderabad.

6. The S.O., Posting Section, High Court of A.P., Hyderabad.